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5 UNITED STATES DISTRICT COURT  
6 CENTRAL DISTRICT OF CALIFORNIA  
7 SOUTHERN DIVISION

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9 THE HONORABLE JAMES V. SELNA, JUDGE PRESIDING

10 IN RE STEC, INC., SECURITIES  
11 LITIGATION

12 SACV-09-1304-JVS  
13 SACV-09-1306-JVS  
14 SACV-09-1315-JVS  
15 SACV-09-1320-JVS  
16 SACV-09-1460-JVS  
17 CV-09-8536-JVS

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

Santa Ana, California

October 11, 2011

SHARON A. SEFFENS, RPR  
United States Courthouse  
411 West 4th Street, Suite 1-1053  
Santa Ana, CA 92701  
(714) 543-0870

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1 APPEARANCES OF COUNSEL:

2 For the Plaintiffs:

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9 For the STEC Defendants:

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13 For Defendants BARCLAYS CAPITAL, INC.,  
14 DEUTSCHE BANK SECURITIES, INC.,  
J.P. MORGAN SECURITIES, INC., and  
15 OPPENHEIMER & CO., INC.:

16 AMY JUNE  
17 BINGHAM MCCUTCHEN LLP  
1900 University Avenue  
East Palo Alto, CA

18  
19 ALSO PRESENT:

20 ROBERT SAMAN  
21 General Counsel of STEC  
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23  
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1 SANTA ANA, CALIFORNIA; TUESDAY, OCTOBER 13, 2011; 2:30 P.M.

2 THE CLERK: Item No. 4, SACV-09-1304-JVS, In Re  
3 STEC, Incorporated, consolidated with SACV-09-1306-JVS,  
4 SACV-09-1315-JVS, SACV-09-1320-JVS, SACV-09-1460-JVS, and  
5 CV-09-8536-JVS.

6 Counsel, please state your appearances.

7 MR. LITE: Good afternoon, Your Honor. Allyn Lite  
8 for the State of New Jersey.

9 MR. DUBBS: Good afternoon, Your Honor. Thomas  
10 Dubbs for the State of New Jersey.

11 MS. JUNE: Good afternoon, Your Honor. Amy June  
12 for the underwriter defendants.

13 MR. GIBBS: Good afternoon, Your Honor. Patrick  
14 Gibbs and Chris Johnstone of my firm, and with us is Robert  
15 Saman, General Counsel of STEC. I am here on behalf of all  
16 the STEC defendants.

17 THE COURT: This is Judge Selna. We are in the  
18 courtroom on the record with a court reporter.

19 We received a pleading which you filed this  
20 afternoon in the form of a letter. Let me make it clear  
21 going forward there will be full, complete, and timely  
22 compliance with the Court's orders. If you think you need  
23 relief from an order, you should apply. That also includes  
24 the local rules which bar communicating with the Court by  
25 way of letters. The appropriate way to communicate with the

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1 Court on scheduling matters is to file a pleading on a  
2 caption.

3 I have reviewed the two competing dates, and I am  
4 going to adopt the defendants' proposal with one or two  
5 minor changes.

6 The matter will proceed to jury trial on July 24,  
7 2012. We will do the pretrial at 11:00 a.m. on July 9,  
8 2012. The pretrial papers will be due July 3, 2012. The  
9 last for hand-serving motions in-limine -- this is a change  
10 to comply with the 28-day cycle in the local rules. The  
11 last to file will be June 11, 2012. Last for hearing  
12 regular motions June 4, 2012. Last for hand-serving regular  
13 motions May 7, 2012. Nonexpert discovery cutoff April 10,  
14 2012. Expert discovery cutoff -- well, first, initial  
15 disclosures March 27, 2012. Rebuttal disclosures April 10,  
16 2012. Expert discovery cutoff April 24, 2012.

17 You propose the last for a settlement conference  
18 to be December 7, 2011. What do you propose to do by way of  
19 a procedure?

20 MR. DUBBS: What we were proposing, although in  
21 fairness to my colleagues on the other side we hadn't gotten  
22 into all the details -- the proposition that we were  
23 thinking of is to try to see if we could have a relatively  
24 early mediation after some document discovery was done  
25 before we embarked on full-blown deposition discovery. That

1 was the thinking.

2 THE COURT: So what are you going to do? Mediate?

3 MR. DUBBS: Yes.

4 THE COURT: Okay. Let's say no later than  
5 December 7 you will accomplish your mediation. Whenever you  
6 do accomplish it, would you put in a joint report within  
7 seven days letting me know generally what progress the  
8 parties have been able to make, and if they have not  
9 resolved it, would you let me know if you think the Court  
10 could be of any assistance at that point.

11 MR. DUBBS: We will do that, Your Honor.

12 THE COURT: You propose exchanging initial  
13 disclosures October 25, 2011. Let me tell you quite  
14 candidly that is appalling. This should have been done  
15 months and months ago. That's just appalling, gentlemen.  
16 You are going to move this case along efficiently and  
17 expeditiously , and there shall be no more foot-dragging.

18 The class certification schedule that the defense  
19 proposes, opening motion by the plaintiffs November 21,  
20 2011; opposition December 12, 2011; reply January 10, 2012;  
21 hearing February 4, 2012. I'm going to set up a status  
22 conference for January. I would like to do it toward the  
23 end of January if either the 23rd or the 30th is convenient.

24 MR. DUBBS: Can we make it the 23rd? I have a  
25 hearing in New York on the 31st which can't be moved.

1 MR. GIBBS: The 23rd is fine for us.

2 THE COURT: 11:00 a.m. on the 23rd. Would you put  
3 in a joint report, please, just letting me know the status  
4 of things. It does not have to be elaborate. I just want  
5 to be brought up to speed. If there are any issues that we  
6 should be discussing, I would like a heads-up on that, too.

7 (Court and clerk conferring.)

8 THE COURT: I may have misspoke on the date for  
9 the class certification. It will be February 6, 2012.

10 In considering these proposals, I have given  
11 foremost attention to the class members and their need to be  
12 protected notwithstanding what I regard is an unexplained  
13 failure on the part of counsel thus far to discharge their  
14 fiduciary duty to the class in a competent, efficient, and  
15 timely manner. Notwithstanding that, I don't believe the  
16 class members should be penalized.

17 Accordingly, obviously having adopted a new  
18 schedule, I am not forcing the parties to trial on the  
19 current trial date. All the current dates we have vacated  
20 in favor of the dates I have just set. But let me say,  
21 gentlemen, there will be no falling down on the job from  
22 here on out.

23 Does anybody have any questions about that?

24 MR. DUBBS: No, Your Honor.

25 THE COURT: Anything further for today?

1           MR. DUBBS: Your Honor, I would just ask that --  
2     you have adopted the six-month schedule that the defendants  
3     propose, and I understand Your Honor's rationale. I would  
4     only point out that there has been a congressionally  
5     mandated stay that was in place for over a year. More  
6     importantly, if this case were only between the plaintiffs  
7     and STEC, the six months would not be problematic.

8           I would only remind the Court, which the Court is  
9     aware of given its extensive review of the Complaint, that  
10    the gravamen of the case here is in no small part certain  
11    statements the STEC made with respect to earnings and its  
12    relationships with several customers. There are five major  
13    customers. Each of their depositions is going to have to be  
14    taken, and we are going to need documents from those. In  
15    addition, there are any number of analysts that the Court is  
16    familiar with that were cited in the Amended Complaint.

17           That is why we suggested nine months because there  
18    are more third parties that are true third parties that are  
19    material to the subject matter than in the usual case. For  
20    that reason, we suggested nine months, and I would  
21    respectfully urge the Court to consider that.

22           THE COURT: I'm sticking with the dates I have  
23    adopted. I do my best to keep abreast of developments in  
24    the case law and legislation, but let me say I was entirely  
25    unaware of a stay mandated by Congress. You can correct me

1 if my recollection is wrong, but I don't believe any party  
2 has brought that fact to the Court's attention prior to  
3 today.

4 MR. DUBBS: Your Honor, I can't recall exactly  
5 when it was brought to the Court's attention, but under the  
6 Private Securities Litigation Reform Act, a discovery stay  
7 is automatically in place until the Motion to Dismiss has  
8 been decided.

9 In this case, due to the somewhat unique  
10 circumstances in that there was a prior lead counsel --  
11 prior counsel, then there was a new lead plaintiff selection  
12 process -- New Jersey came -- was selected as the new lead  
13 plaintiff. New Jersey then amended the Complaint twice, and  
14 there was a Motion to Dismiss which was finally dealt with  
15 by the Court on June 17, 2011. So there was an automatic  
16 stay in place under the Private Securities Litigation Reform  
17 Act from approximately the middle of May through the middle  
18 of June of this year.

19 After that stay was lifted, as we talked about in  
20 our last conference on this subject, we then had the issue  
21 of the removal and the remand. There was no stay in place  
22 concededly during that period. If the Court wants to find  
23 fault for us not doing something in that period, it can do  
24 so, but between May 12, 2010, and June 17 of this year,  
25 there was a stay under the applicable legislation in effect.



1 I think as the schedule demonstrates both sides  
2 are prepared to proceed very, very expeditiously for a case  
3 of this complexity, but I think the extra three months would  
4 make a substantial difference given the number of  
5 third-party witnesses that are truly third-party witnesses  
6 whose activities and role has been pled in the Complaint.

7 MR. GIBBS: Your Honor, may I respond briefly?

8 THE COURT: Briefly.

9 MR. GIBBS: Mr. Dubbs is correct that there was a  
10 discovery stay in place, although as he concedes, that stay  
11 was no longer in effect as soon as the Court denied our most  
12 recent Motion to Dismiss, and that was four months ago.  
13 Having this case pending places a number of burdens on the  
14 company. There has been nothing stopping the plaintiff from  
15 doing anything for the past four months. There has been  
16 nothing stopping them from doing anything for the last  
17 several weeks. We think the time period we suggested is  
18 ample if they get to work, and we respectfully request that  
19 the Court stick with the dates you have already set.

20 THE COURT: The dates I have set I have set. Let  
21 me say my view at this point is prospective, not respective.  
22 I plan to work with the parties to see that we can get this  
23 case tried on time.

24 Anything further for today?

25 MR. DUBBS: No, Your Honor.

1 THE COURT: Thank you very much.

2 (Whereupon, the proceedings were concluded.)

3 \* \* \*

CERTIFICATE

I hereby certify that pursuant to Section 753,  
Title 28, United States Code, the foregoing is a true and  
correct transcript of the stenographically reported  
proceedings held in the above-entitled matter and that the  
transcript page format is in conformance with the  
regulations of the Judicial Conference of the United States.

Date: October 11, 2011

Sharon A. Seffens 10/11/11

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